

HOUSE BILL 2054  
By McMillan

AN ACT to amend Tennessee Code Annotated, Title 36 and Title 37 relative to adoptions.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 36-1-101(a), is amended by deleting the word “adoptees” and substituting instead the word “adopted persons”.

SECTION 2. Tennessee Code Annotated, Section 36-1-101(c), is amended by deleting subsection (c) in its entirety and by substituting instead the following new subsection:

(c) The purpose of this part shall also be to favor the rights of adopted persons or other persons for whom any closed records are maintained and their families to obtain information concerning the lives of those persons and to permit them to obtain information about themselves from the adoption records, sealed records, sealed adoption records, or post-adoption records to which they are entitled, but also to recognize the rights of parents and adopted persons not to be contacted by the persons who obtain such information, except in compliance with this part.

SECTION 3. Tennessee Code Annotated, Section 36-1-102, is amended by deleting subsection (3) in its entirety and by substituting instead the following new subsection (3):

(3) “Adopted person” means:

(A) Any person who is or has been adopted under this part or under the laws of any state, territory, or foreign country.

(B) For purposes of the processing and handling of, and access to, any adoption records, sealed adoption records, sealed records, post-adoption records, or adoption assistance records pursuant to this part, this term shall also include a person for whom any of those records is maintained by the court, other persons or entities or persons authorized to conduct a surrender or revocation of surrender pursuant to this part, or which records are maintained by the department, a licensed or chartered child-placing agency, a licensed clinical social worker, or the department of health or other information source, whether an adoption petition was ever filed, whether an adoption order was ever entered, whether the adoption was ever dismissed, whether the adoption was ever finalized, or whether the adoption was attempted or was otherwise never completed due to the abandonment of any necessary activity related to the completion of the adoption.

SECTION 4. Tennessee Code Annotated, Section 36-1-102, is amended by deleting subsection (4) in its entirety.

SECTION 5. Tennessee Code Annotated, Section 36-1-102, is amended by adding the following new definition:

( ) “Chartered child-placing agency” means, for purposes of this part, an agency which had received a charter from the state of Tennessee through legislative action or by incorporation for the operation of an entity or a program of any type which engaged in the placement of children for foster care or residential care as part of a plan or program for which those children were or could have been made available for adoptive placement and which may have, at sometime during its existence, become subject to any licensing requirements by the department of human services or its predecessors.

SECTION 6. Tennessee Code Annotated, Section 36-1-102, is amended by adding the following new definition:

( ) “Eligible person” means, for purposes of §§ 36-1-125 - 141, a person who is verified by the department as being in the class of individuals who is permitted by this part to receive access to records.

SECTION 7. Tennessee Code Annotated, Section 36-1-102, is amended by deleting subsection (7) in its entirety and by substituting instead the following new subsection (7) :

(7) “Adoption record” means:

(A)(i) The records, reports, or other documents maintained in any medium by the judge or clerk of the court, or by any other person pursuant to this part who is authorized to witness the execution of surrenders or revocations of surrenders, which records, reports or documents relate to an adoption petition, a surrender or parental consent, a revocation of a surrender or parental consent, or which reasonably relate to other information concerning the adoption of a person, and which information in such records, reports, or documents exists during the pendency of an adoption or a termination of parental rights proceeding or which records, reports, or documents exist subsequent to the conclusion of those proceedings, even if no order of adoption or order of dismissal is entered, but which records, reports or documents exist prior to those records, reports or documents becoming a part of a sealed record or a sealed adoption record pursuant to §36-1-126; or

(ii) The records, reports, or documents maintained in any medium by the department’s social services division, or by a licensed or chartered child-placing agency or licensed clinical social worker, and which records, reports, or documents contain any social, medical, legal, or other information concerning an adopted person, a person who has been placed for adoption or a person for whom adoptive placement activities are currently occurring, and which information in such records, reports or documents exists during the pendency of an adoption or termination of parental rights proceeding or, which exists subsequent to the conclusion of those proceedings, even if no order of

adoption or dismissal of an adoption has been entered, but which records, reports or documents exist prior to those records, reports or documents becoming sealed records or sealed adoption records pursuant to §36-1-126.

(B) The adoption record is confidential and, and except as otherwise permitted by this part, is not subject to disclosure by the court, a licensed child-placing agency, licensed clinical social worker or other person or entity except, prior to the record becoming a sealed record or a sealed adoption record pursuant to § 36-1-126, as may be necessary for purposes directly related to the placement, care, treatment, protection, or supervision by the legal custodian, legal guardian, conservator, or other legally authorized caretaker, of the person who is the subject of the adoption proceeding or as necessary for the purposes directly related to legal proceedings involving the person who is subject to the jurisdiction of a court in an adoption proceeding or other legal proceeding related to an adoption, including terminations of parental rights, or as may otherwise be necessary for use in any child or adult protective services proceedings concerning the person about whom the record is maintained pursuant to Titles 37 and 71.

(C) The adoption record shall not, for purposes of release of the records pursuant to §§36-1-127 through 36-1-141 be construed to permit access, without a court order pursuant to § 36-1-138, to home studies or preliminary home studies or any information obtained by the department, a licensed or chartered child-placing agency, a licensed clinical social worker, or other family counseling service, a physician, a psychologist, or member of the clergy, an attorney or other person in connection with a home study or preliminary home study as part of an adoption or surrender or parental consent proceeding or as part of the evaluation of prospective adoptive parents, other than those studies which are expressly included in a report to the court by such entities or persons. Information relating to the counseling of a biological mother regarding crisis

pregnancy counseling shall not be included in the adoption record for purposes of release pursuant to this part without a court order pursuant to § 36-1-138.

SECTION 8. Tennessee Code Annotated, Section 36-1-102, is amended by deleting subsection (10) in its entirety and by substituting instead the following subsection (10):

(10) "Biological relative" means:

(A) For adopted persons for whom any adoption records, sealed adoption records, sealed records, or post-adoption records are maintained: the biological parents of the child, the brothers or sisters of the whole or half blood, the blood grandparents of any degree, the blood aunts or uncles, or the blood cousins of the first degree, of such persons.

(B) For persons about whom any background information is sought as part of the surrender or parental consent process: the biological parents of the child, the brothers or sisters of the whole or half blood, the blood grandparents of any degree, or the blood aunts or uncles.

SECTION 9. Tennessee Code Annotated, Section 36-1-102(15), is amended by adding the following sentence at the end of this subsection:

The court report shall not include the home study or preliminary home study, but instead shall include a summary of such study.

SECTION 10. Tennessee Code Annotated, Section 36-1-102(23), is amended by adding the following sentence after the second sentence:

The home study may be the basis on which the court report recommends approval or denial to the court of the family as adoptive parents.

Tennessee Code Annotated, Section 36-1-102(23), is further amended in the third sentence by deleting the word "Any" and substituting instead the following words:

"A court report based upon any"

Tennessee Code Annotated, Section 36-1-102(23), is further amended by adding the following new sentence at the end of the subsection:

The home study shall be confidential, and at the conclusion of the adoption proceeding shall be forwarded to the department to be kept under seal pursuant to § 36-1-126, and shall be subject to disclosure only upon order entered pursuant to § 36-1-138.

SECTION 11. Tennessee Code Annotated, Section 36-1-102, is amended by deleting subsection (30) in its entirety and by substituting instead the following new subsection (30):

(30) "Lineal ancestor" means, for purposes of this part, any degree of grandparent or great-grandparent, either by birth or adoption;

SECTION 12. Tennessee Code Annotated, Section 36-1-102, is amended by deleting subsection (34) in its entirety and by substituting instead the following new subsection (34):

(34) "Post-adoption record" means:

(A) The record maintained in any medium by the department, a licensed or chartered child-placing agency or a licensed clinical social worker, separately from the sealed record or sealed adoption record and subsequent to the sealing of an adoption record or which is maintained about any sealed record or sealed adoption record. The post-adoption record contains information, including, but not limited to, about adopted persons or the legal or biological relatives of adopted persons, or about persons for whom sealed records or sealed adoption records are maintained, or about persons who are seeking information about adopted persons, or persons on whom a sealed record or sealed adoption record is maintained, and the post-adoption record contains information concerning, but not limited to, the contact veto registry established by this part, the written inquiries from persons requesting access to records, the search efforts of the department pursuant to the requirements of the contact veto process, the response to those search efforts by those persons sought, information which has been requested to be transmitted from or on behalf of any person entitled to access to records pursuant to

this part, any updated medical information gathered pursuant to this part, court orders related to the opening of any sealed adoption records or sealed records, and personal identifying information concerning any persons subject to the provisions of this part.

B) The limited record maintained by the licensed or chartered child-placing agency or a licensed clinical social worker pursuant to § 36-1-126(b)(2).

(C) This record is confidential and shall be opened only as provided in this part.

SECTION 13. Tennessee Code Annotated, Section 36-1-102(37), is amended by deleting the second sentence of subdivision (C) and by substituting instead the following new sentence:

To be valid for use as the basis for a court report in connection with a surrender or a parental consent, the preliminary home study must have been completed or updated within thirty (30) days prior to the date the surrender is accepted or the parental consent is executed or confirmed or the guardianship order is entered. The home study shall be confidential, and at the conclusion of the adoption proceeding shall be forwarded to the department to be kept under seal pursuant to § 36-1-126, and shall be subject to disclosure only upon order entered pursuant to § 36-1-138.

SECTION 14. Tennessee Code Annotated, Section 36-1-102, is amended by deleting subsection (40) in its entirety and by substituting instead the following new subsection (40):

(40) "Sealed adoption record" means:

(A) The adoption record as it exists subsequent to its transmittal to the department, or subsequent to its sealing by the court, pursuant to the requirements of §36-1-126, or

(B) The limited record maintained by the licensed or chartered child-placing agency or a licensed clinical social worker pursuant to § 36-1-126(b)(2).

(C) This record is confidential and shall be opened only as provided in this part.

(D) The sealed adoption record shall not, for purposes of release of the records pursuant to §§36-1-127 through 36-1-141 be construed to permit access, without a court order pursuant to § 36-1-138, to home studies or preliminary home studies or any information obtained by the department, a licensed or chartered child-placing agency, a licensed clinical social worker, or other family counseling service, a physician, a psychologist, or member of the clergy, an attorney or other person in connection with a home study or preliminary home study as part of an adoption or surrender or parental consent proceeding or as part of the evaluation of prospective adoptive parents, other than those studies which are expressly included in a report to the court by such entities or persons. Information relating to the counseling of a biological mother regarding crisis pregnancy counseling shall not be included in the adoption record for purposes of release pursuant to this part without a court order pursuant to § 36-1-138.

SECTION 15. Tennessee Code Annotated, Section 36-1-102, is amended by adding the following new subsection:

( ) "Sealed record" means:

(A) Any records, reports or documents which are maintained at any time by a court, a court clerk, a licensed or chartered child-placing agency, licensed clinical social worker, the department, the department of health, or any other information source concerning the foster care or agency care or foster care or agency care placement, or placement for adoption, of a person by any branch of the Tennessee Children's Home Society authorized by Public Chapter 117 (1919); or

(B) Any records, reports or documents maintained by a judge, a court clerk, the department, a licensed or chartered child-placing agency, a licensed clinical social worker, the department of health, or any other information source which consists of adoption records or information about an adoption proceeding or a termination of parental rights proceeding about an adopted person, or which contain information about



a person who was placed for adoption but for whom no adoption order was entered or for whom an adoption proceeding was dismissed or for whom an adoption was not otherwise completed, or which contain information concerning persons in the care of any person or agency, and which records have otherwise been treated and maintained by those persons or entities under prior law, practice, policy, or custom as confidential, non-public adoption records, sealed adoption records, or post-adoption records of the person, or which may be otherwise currently treated and maintained by those persons or entities as confidential, non-public adoption records, sealed adoption records or post-adoption records of the person; or

(C) The limited record maintained by the licensed or chartered child-placing agency or a licensed clinical social worker pursuant to § 36-1-126(b)(2).

(D) This record is confidential and shall be opened only as provided in this part.

(E) The sealed record shall not, for purposes of release of the records pursuant to §§36-1-127 through 36-1-141 be construed to permit access, without a court order pursuant to § 36-1-138, to home studies or preliminary home studies or any information obtained by the department, a licensed or chartered child-placing agency, a licensed clinical social worker, or other family counseling service, a physician, a psychologist, or member of the clergy, an attorney or other person in connection with a home study or preliminary home study as part of an adoption or surrender or parental consent proceeding or as part of the evaluation of prospective adoptive parents, other than those studies which are expressly included in a report to the court by such entities or persons. Information relating to the counseling of a biological mother regarding crisis pregnancy counseling shall not be included in the adoption record for purposes of release pursuant to this part without a court order pursuant to § 36-1-138.

SECTION 16. Tennessee Code Annotated, Section 36-1-104, is amended by deleting the words “unprivileged and” and is further amended by adding the following sentence at the end:

Nothing herein shall be construed to require any person or agency to disclose any information, the confidentiality or privilege of which is protected by any state or federal law or regulation.

SECTION 17. Tennessee Code Annotated, Section 36-1-106(c), is amended by adding the words “no court report need be made” before the words “and no time period” in the second sentence of subsection (c).

SECTION 18. Tennessee Code Annotated, Section 36-1-108(b), is amended by deleting the words “this part” and by substituting instead the words and figures “this section and § 36-1-109”.

SECTION 19. Tennessee Code Annotated, Section 36-109(2)(1), is amended by deleting subdivision (B) in its entirety and by substituting instead the following subdivision (B):

(B)(i) Provided, however, that this section shall not be construed to prohibit the payment by any interested person of reasonable charges or fees for hospital or medical services for the birth of the child, or for medical care and other reasonable birth-related expenses for the mother and/or child incident thereto, for reasonable counseling fees for the parents or prospective adoptive parents and/or child, for reasonable legal services or the reasonable costs of legal proceedings related to the adoption of any child or for reasonable, actual expenses for housing, maternity clothing, child’s clothing, utilities or transportation for a reasonable period not to exceed ninety (90) days prior to or thirty (30) days after the birth or surrender or parental consent to the adoption of the child, unless a court with jurisdiction for the adoption of a child, based upon detailed affidavits of a birth mother and the prospective adoptive parents and such other evidence as the court may require, specifically approves in a written order, based upon a motion for the

purpose, any expenses specifically allowed herein for a period prior to or after the periods noted above.

(ii) Such expenses must be incurred directly in connection with the maternity, birth, and/or placement of the child for adoption, or for legal services or for costs of legal proceedings directly related to the adoption of the child, or for counseling for a period of up to one (1) year for the parent who surrenders the child or consents to the adoption of the child;

(iii) The payment for such expenses may only be for expenses or costs actually incurred during the periods permitted in items (i) and (ii). This shall not be construed to prohibit the actual payment or receipt of payment for such expenses or costs after those periods which were actually incurred during those periods.

SECTION 20. Tennessee Code Annotated, Section 36-1-110(b), is amended by deleting the word “wavier” before the words “of interest” and by substituting instead the word “waiver”.

SECTION 21. Tennessee Code Annotated, Section 36-1-111(a)(2), is amended by deleting the word “The” at the beginning of the first sentence and by substituting instead the words “A court report based upon the”.

Tennessee Code Annotated, Section 36-1-111(a)(2), is further amended in the first sentence by deleting the words “the study” before the words “must be reviewed” and by substituting instead the words “the court report”.

Tennessee Code Annotated, Section 36-1-111(a)(2), is further amended in the second sentence by adding the words “the court report based upon” before the words “the home study or preliminary home study”.

SECTION 22. Tennessee Code Annotated, Section 36-1-111(a)(3), is amended by deleting from the first sentence the words “home studies and preliminary home studies” and substituting instead the words “court reports”.

Tennessee Code Annotated, Section 36-1-111(a)(3) is further amended in the second sentence by deleting the words “any adverse reports” and substituting instead the words “any adverse court reports or information contained therein”.

SECTION 23. Tennessee Code Annotated, Section 36-1-111(d)(4), is amended by deleting the word and figure “subsection (1)” and substituting instead the word and letter “subsection (l)”.

SECTION 24. Tennessee Code Annotated, Section 36-1-111(d)(5), is amended by deleting the word “No” at the beginning of the first sentence and substituting instead the words and punctuation: “Unless the surrender or parental consent is made to the physical custodian or unless the exceptions of subdivision (6) otherwise apply, no”

SECTION 25. Tennessee Code Annotated, Section 36-1-111(k)(4)(A), is amended by adding the words “or from a licensed child-placing agency” after the words “prospective adoptive parents” in the first sentence.

SECTION 26. Tennessee Code Annotated, Section 36-1-111(k)(4), is amended by deleting subdivision (B) in its entirety and by substituting instead the following new subdivision:

(B) In the case of a surrender of a child to be removed from Tennessee for adoption, the court shall obtain a statement from the prospective adoptive parents that there will be compliance with the Interstate Compact on the Placement of Children and how that compliance will be effected;.

SECTION 27. Tennessee Code Annotated, Section 36-1-111(l), is amended by adding the following new subdivision to be designated subdivision (3) and by re-numbering subdivisions (3) and (4) to be subdivisions (4) and (5) respectively:

(3) The provisions of this subsection shall also apply to the use of parental consents pursuant to §36-1-117(g) prior to entry of the order of confirmation.

SECTION 28. Tennessee Code Annotated, Section 36-1-111(m), is amended by adding the words “or before confirmation of a parental consent by the court” after the words “execution of the surrender” in the first sentence.

SECTION 29. Tennessee Code Annotated, Section 36-1-111(m)(1), is amended by deleting the words “A currently effective” and substituting instead the words “A court report based upon a currently effective”.

SECTION 30. Tennessee Code Annotated, Section 36-1-111(o), is amended by adding the words “nor shall a parental consent be confirmed by the court” after the words and letters “subsection (h), (i), or (j)”.

SECTION 31. Tennessee Code Annotated, Section 36-1-111(p)(2), is amended by adding the following sentence at the end of subsection (A):

“No litigation tax shall be charged or paid in connection with a surrender filed in any court.”

SECTION 32. Tennessee Code Annotated, Section 36-1-111(q)(2), is amended by deleting the word “executed” and substituting instead the word “filed”.

SECTION 33. Tennessee Code Annotated, Section 36-1-111(t)(1), is amended by deleting the word “the” before the words “filing a parental consent” in the first line.

Tennessee Code Annotated, Section 36-1-111(t)(1), is further amended by adding the words “no court report based upon the home study has been” before the words “filed with the court”.

SECTION 34. Tennessee Code Annotated, Section 36-1-111(t)(3), is amended by deleting the words “The home study shall be filed by” and substituting instead the words “The court report based upon the home study shall be filed with”.

SECTION 35. Tennessee Code Annotated, Section 36-1-111(t)(4), is amended by adding the word “court” before the word “reports”.

SECTION 36. Tennessee Code Annotated, Section 36-1-111(t), is amended by deleting subdivision (5) in its entirety and by substituting instead the following new subdivision:

(5) If the adoption petition is filed before the home study is completed or before the court report based upon the home study is filed, and the adoption petition is filed in a court other than the one where the surrender is executed, the court where the surrender is executed shall, upon request of the court where the adoption petition is filed or upon motion of the prospective adoptive parents, send any court report it receives to the adoption court.

SECTION 37. Tennessee Code Annotated, Section 36-1-111(v)(2), is amended by adding the word “court” before the word “reports”.

SECTION 38. Tennessee Code Annotated, Section 36-1-111(w), is amended by deleting subdivision (1) in its entirety and substituting instead the following new subdivision:

(1) Notwithstanding any other provision of law to the contrary, a waiver of interest, when signed under oath by the alleged biological father of a child to be placed for adoption, shall serve to terminate irrevocably the alleged father’s parental rights and the responsibility for any future financial obligation to the child or the child’s mother arising after the date of the execution of the waiver, and the alleged father shall not be a party to any adoption proceedings with respect to the child and shall not receive notice thereof.

SECTION 39. Tennessee Code Annotated, Section 36-1-111(w)(4), is amended in the third paragraph by deleting the words “I do not wish to provide care for” and substituting instead the words “I do not wish to provide care for or have custody of”.

SECTION 40. Tennessee Code Annotated, Section 36-1-112(a)(2)(B), is amended by deleting the word “form” at the end of the sentence.

SECTION 41. Tennessee Code Annotated, Section 36-1-113(a), is amended by deleting the words “all grounds” and substituting instead the words “any grounds”.

SECTION 42. Tennessee Code Annotated, Section 36-1-113(b), is amended by inserting the words “a court appointed special advocate(CASA) for the child or CASA agency,” after the words “guardian ad litem,” and before the words “or the” in the first sentence.

SECTION 43. Tennessee Code Annotated, Section 36-1-113(d)(2)(A), is amended by inserting the word “birth” before the word “name”.

SECTION 44. Tennessee Code Annotated, Section 36-1-113(d)(2)(C), is amended by inserting the words “or county of residence” after the words “residence address”.

SECTION 45. Tennessee Code Annotated, Section 36-1-116(b)(2), is amended by inserting the word “court” before the words “report required by law” in the second sentence.

SECTION 46. Tennessee Code Annotated, Section 36-1-116(b)(12)(B), is amended by deleting the figures “§36-1-113” and substituting instead the figures “§36-1-102(13)”.

SECTION 47. Tennessee Code Annotated, Section 36-1-116(e)(1), is amended by deleting the words “caused to be filed a copy of” and substituting instead the words “cause to be filed a copy of the court report based upon”.

SECTION 48. Tennessee Code Annotated, Section 36-1-116(e)(2)(A), is amended by inserting the words “court reports based upon” before the words “home studies” in the first sentence.

SECTION 49. Tennessee Code Annotated, Section 36-1-116(e)(2)(B), is amended by deleting the word “to” before the words “be submitted” and substituting instead the words and punctuation “,and a court report based upon such a study must”.

Tennessee Code Annotated, Section 36-1-116(e)(2)(B), is further amended by inserting the words “a court report based upon” before the words “a timely home study”.

Tennessee Code Annotated, Section § 36-1-116(e)(2)(B), is further amended by inserting the word “and” before the words “the court may enter” in line 8.

SECTION 50. Tennessee Code Annotated, Section 36-1-116(e)(3), is amended in the first sentence by inserting the words “a court report” before the words “filed with the court” and by deleting the words “a home study of the petitioners and”.

SECTION 51. Tennessee Code Annotated, Section 36-1-116(e)(5)(A), is amended by deleting the words “home study and” before the words “preliminary court report” in the first line.

SECTION 52. Tennessee Code Annotated, Section 36-1-116(k)(4), is amended by inserting the word “court” before the word “reports”.

SECTION 53. Tennessee Code Annotated, Section 36-1-117(a)(1), is amended by deleting the words and punctuation “the other parent,” ; by deleting the comma after the words “putative biological father”; and by deleting the word “or” after the words “guardianship rights to the child” and by placing a comma after the words “guardianship rights to the child”.

SECTION 54. Tennessee Code Annotated, Section 36-1-117(g), is amended by adding a new subdivision (6) as follows:

(6) Upon entry of the order of confirmation, the clerk shall send certified copies of the order to the adoptions unit in the state office of the department in Nashville.

SECTION 55. Tennessee Code Annotated, Section 36-1-117(g)(4), is amended by deleting the proviso clause beginning with the words “provided, that until the court enters a final order of adoption, the parent may revoke parental consent at any time by executing a revocation form as provided by § 36-1-112, and such revocation shall negate and void the parental consent executed pursuant to this subdivision” in its entirety and substituting instead the words of the following proviso clause:

provided, however, a parental consent may be revoked at anytime prior to the entry of an order of confirmation of the parental consent by the court by executing a revocation form as provided in § 36-1-112 and such revocation shall negate and void the parental consent executed pursuant to this subsection.



SECTION 56. Tennessee Code Annotated, Section 36-1-117(l), by deleting the words “need be made” after the words “service of process” and substituting instead the words “shall be made”.

SECTION 57. Tennessee Code Annotated, Section 36-1-119(c), is amended by deleting the words “home study and” before the words “final court report”.

SECTION 58. Tennessee Code Annotated, Section 36-1-125(a), is amended by deleting the words “or the department” and substituting instead the words “the department or any other person”.

SECTION 59. Tennessee Code Annotated, Section 36-1-125(a), is amended by deleting the words “adoption or sealed adoption records” and substituting instead the words “adoption records, sealed adoption records, or sealed records”.

Tennessee Code Annotated, Section 36-1-125(a), is further amended by inserting the words “or sealed records” after the word “records” and before the words “which have been”.

SECTION 60. Tennessee Code Annotated, Section 36-1-125(b), is amended in the first line by inserting the words and punctuation “, home studies or preliminary home studies” after the words “Adoption records”.

SECTION 61. Tennessee Code Annotated, Section 36-1-125, is amended by deleting subsection (c) in its entirety and by substituting instead the following new subsection:

(c) If any adoption records, sealed adoption records, sealed records, post-adoption records, adoption assistance records, home studies, preliminary home studies or information obtained in connection therewith are required by court order under this part to be disclosed for any legal proceeding other than the adoption proceeding or termination of parental rights proceedings, the court in which they are to be utilized shall enter a protective order to restrict their further disclosure or dissemination. Such records, studies, or information shall not become a public record in any legal proceeding.

SECTION 62. Tennessee Code Annotated, Section 36-1-125(d), is amended by inserting the words and punctuation “, studies or information” before the word “protected” in the first sentence.

SECTION 63. Tennessee Code Annotated, Section 36-1-126, is amended by deleting subsection (a) in its entirety and substituting instead the following new subsection:

(a) After the entry of the final order of adoption or after entry of the final order dismissing the adoption or revoking the surrender or parental consent or dismissing or upon conclusion of all termination of parental rights proceedings which were filed in conjunction with an adoption proceeding, all adoption records, court reports, home studies, preliminary home studies, other reports or other documents or papers or other information concerning the placement or attempted placement of a person for adoption or other information concerning the litigation of the adoption or attempted adoption of a person which are in the office of the judge or clerk of the court where the adoption was filed or where the surrender or confirmation of parental consent, or revocation or a surrender or parental consent was taken, or any such records, reports, or documents in the offices of a licensed child-placing agency, a licensed clinical social worker, or in the county, regional, or state offices of the department of health, or in the county, district, and state offices of the department of human services, shall be placed, and remain, under seal, except as provided herein or in § 36-1-118(e)(4) or in Title 68, and shall be confidential and shall be disclosed only as provided in this part.

SECTION 64. Tennessee Code Annotated, Section 36-1-126(b), is amended by deleting subdivision (1) in its entirety and substituting instead the following new subdivision:

(1) Upon the granting or dismissal of an adoption petition, or after entry of the final order dismissing the adoption or revoking the surrender or the parental consent or upon conclusion of all termination of parental rights proceedings which were filed in conjunction with an adoption proceeding, all records and reports, home studies, and

preliminary home studies or other information described in subsection (a) relating to the adoption proceeding and all records, reports and other documents related to the child's placement with the department or the licensed or chartered child-placing agency or licensed clinical social worker and with the adoptive or prospective adoptive family which are in the offices of the department or in the offices of any Tennessee licensed child-placing agency or licensed clinical social worker, shall be forwarded by the county and district offices of the department's social services division and by the licensed child-placing agency or licensed clinical social worker involved in any such proceedings to the state office of the department, which shall place the records under seal and ensure their safekeeping; provided, however, copies of any records which relate to a child who is placed or retained in the custody or guardianship of the department or a licensed child-placing agency after the dismissal of an adoption proceeding without further adoption of the child by any person or pursuant to any guardianship or other order of the court pursuant to this part shall be retained as confidential foster care records pursuant to §37-2-401 et seq. and shall be utilized by the department or licensed child-placing agency for the care, supervision, protection, and treatment of that child as may be necessary.

SECTION 65. Tennessee Code Annotated, Section 36-1-126(b)(2), is amended by inserting the words and punctuation “,chartered child-placing agency” after the words “licensed child-placing agency”.

SECTION 66. Tennessee Code Annotated, Section 36-1-126(b), is amended by deleting subdivision (4) in its entirety and substituting instead the following new subdivision:

(4) Upon entry of an order of adoption or dismissal of a petition for adoption or dismissal of termination proceedings which were filed in conjunction with an adoption proceeding, or upon revocation of a surrender or parental consent, or modification of an order of guardianship, the clerk of the court where the adoption or surrender

proceedings were initiated or filed shall forward a certified copy of the orders to the state office adoptions unit of the department in Nashville.

SECTION 67. Tennessee Code Annotated, Section 36-1-126(b)(5), is amended by deleting subdivision (C) in its entirety and substituting instead the following new subdivision:

(C) Upon receipt of the records, reports, home studies and other information, the department shall take any necessary steps to preserve the records, reports, home studies and other information in accordance with this part. These records, reports, home studies and other information shall be filed as a sealed adoption record or sealed record, and all such records shall be confidential, and shall be otherwise subject to the provisions for access as provided pursuant to this part.

SECTION 68. Tennessee Code Annotated, Section 36-1-126(c)(1), is amended by adding to the end of the first sentence the following proviso clause:

“ ; provided, however, sealed records may continue to be registered and maintained under prior departmental procedures.

Tennessee Code Annotated, Section 36-1-126(c)(1), is further amended in the second sentence by inserting the words “or sealed record” after the words “sealed adoption record”.

SECTION 69. Tennessee Code Annotated, Section 36-1-126(c)(2), is amended by deleting the words “sealed records” wherever they appear and substituting instead the words “sealed adoption records or sealed records”.

SECTION 70. Tennessee Code Annotated, Section 36-1-126(c)(3), is amended by inserting the words “or sealed records” after the words “sealed adoption records.”

SECTION 71. Tennessee Code Annotated, Section 36-1-126(d)(1), is amended by deleting the words “sealed or” and substituting instead the words “sealed adoption records, sealed records,” and is further amended by deleting the word “the” before the words “adoption assistance records” and “limited record”, respectively.

SECTION 72. Tennessee Code Annotated, Section 36-1-126(d)(2), is amended by inserting the words “or any order or record of adoption” after the words “birth certificate”.

SECTION 73. Tennessee Code Annotated, Section 36-1-126(d)(4), is amended by inserting the words and punctuation “sealed record,” after the words “sealed adoption record”.

SECTION 74. Tennessee Code Annotated, Section 36-1-126(d)(5), is amended by inserting the words and punctuation “sealed record,” after the words “sealed adoption record”.

SECTION 75. Tennessee Code Annotated, Section 36-1-126, is further amended in subdivisions (d)(4) and (d)(5) by inserting the following phrase after the words “finance and administration” in each subdivision:

, or any successor agencies responsible for the care of children in state custody or guardianship or for administration of the finances for children in state custody or guardianship,

SECTION 76. Tennessee Code Annotated, Section 36-1-126, is further amended in subdivisions (d)(4) and (d)(5) by inserting the words “sealed home study records,” after the words “post-adoption record” in each subdivision.

SECTION 77. Tennessee Code Annotated, Section 36-1-126(d)(6), is amended by deleting the words “sealed adoption record” and substituting instead the words “adoption record, sealed adoption record, sealed record” before the words “or the post-adoption record”.

SECTION 78. Tennessee Code Annotated, Section 36-1-126(d)(7), is amended by inserting the words “ or sealed record” after the words “sealed adoption record”.

SECTION 79. Tennessee Code Annotated, Section 36-1-126(d)(8), is amended by deleting the first sentence in its entirety and substituting instead the following new sentence:

The department, the department of general services, or their specifically authorized agents, may open the sealed adoption records, sealed records, or post-adoption records at any time it becomes necessary to perform any tasks related to the preservation of the records, and each department is specifically

authorized to utilize any methodology which now exists or which may be developed in the future for the permanent preservation of a sealed adoption record, sealed record or post-adoption record, and they may open the records for the limited purpose of undertaking these preservation methods.

SECTION 80. Tennessee Code Annotated, Section 36-1-127, is amended by deleting subsections (a), (b) and (c) in their entireties and substituting instead the following new subsections:

(a)(1) On March 16, 1951, Chapter 202 of the Public Acts of 1951 became effective. As a result, all records related to persons who had been adopted, all records concerning a person for whom any records were maintained and which may have related to an adoption or attempted adoption and which were treated by the department of human services, the former department of public welfare, the courts, the department of health, or any other information sources as a sealed record or sealed adoption record involving an adoption or attempted adoption of a person, became confidential, non-public records which were not made readily available to persons about whom the records were kept.

(2) It is the intent of the General Assembly that all adoption records, court records, sealed records, or sealed adoption records, and post-adoption records and other records or information, except as may otherwise be provided in this part, and which are contained in any information source on and after the effective date of this Act, and which were in existence on March 16, 1951, be made available to eligible persons as provided in this part, and that to that end this is remedial legislation.

(3) It is the further intent of the General Assembly, in view of the testimony before the Adoption Study Commission established by Senate Joint Resolution 17 of the Ninety-Eighth General Assembly (1993 session) and which testimony demonstrated the great concern by many persons regarding the practices of certain Tennessee adoption

agencies in earlier years, that any adoption records, sealed records, sealed adoption records or post-adoption records, or other records maintained at any time by the Tennessee Children's Home Society or its branches or divisions, chartered on June 24, 1913 and authorized under Chapter 117 of the Public Acts of 1919 (Senate Bill 947); and any branch or division thereof, including an organization known as the Tennessee Children's Home Society-Shelby County Division which was referenced in the report of the Tennessee Department of Public Welfare to Governor Gordon Browning dated June 12 1951, shall also be made available to eligible persons in accordance with this part, whether such records were completed or sealed before, on, or after March 16, 1951, and whether any persons subject to the care and supervision of such agency or its branches were ever actually adopted, and to that end this is remedial legislation.

(b) Effective July 1, 1995, pursuant to the requirements of subsections (g) and (h) of this section, and subject to the restrictions in the following sections or subsections:

(1)(A)(i) All adoption records, sealed records, sealed adoption records, post-adoption records, home studies, or any other records or papers, existing prior to March 16, 1951, and relating to the adoption or attempted adoption of a person, which adoption was finalized by: completion of the adoption by the entry of an order of adoption or an order of dismissal of the adoption proceeding prior to March 16, 1951, or which adoption was otherwise never completed due to the abandonment, prior to March 16, 1951, of any further necessary activity related to the completion of the adoption, and which records were sealed or closed by the court before that date; or,

(ii) Any adoption records, sealed records, sealed adoption records, post-adoption records, or any other records or papers, existing prior to March 16, 1951, and relating to the adoption or attempted adoption of a person which, before the effective date of Chapter 532 of the Public Acts of 1995, have been treated as, or have been determined by the department or any other information source to be, cases of adoptions finalized by:

the completion of the adoption by the entry of an order of adoption or by entry of an order of dismissal of the adoption prior to March 16, 1951, or which have been treated by or are determined by the department, as finalized adoptions due to the abandonment, prior to March 16, 1951, of any further necessary activity related to the completion of the adoption; or

(B) All adoption records, sealed records, sealed adoption records, post-adoption records, or any other papers or records, existing either before or after March 16, 1951, concerning a person who was subject to the care and supervision, or subject to placement for foster care or adoption, by any agency described in subsection (a)(3), whether or not the adoption of such person was the plan, whether the person was placed for the purpose of adoption or whether the adoption was finalized by entry of an order of adoption or by order of dismissal of the adoption, whether the adoption was attempted, or was otherwise never completed due to failure to file an adoption petition or due to the abandonment of any further necessary activity related to the completion of the adoption, either before or after March 16, 1951; and

(C) Which records are in the office of the clerk of the adoption court, in the offices of the department of health, in the office of any child-placing agency, whether or not it is chartered or licensed, in the state, district, or county offices of the department of human services, or in any other information source, shall be made available to the following eligible persons:

(i) A person in paragraphs (A) and (B) twenty-one(21) years of age or older for whom an adoption record, sealed record, sealed adoption record, post adoption record, or other record or paper is, nevertheless, maintained;

(ii) The parents of any person described in item (i);

(iii) The siblings of any person described in item (i);



(iv) The lineal descendants, twenty-one (21) years or older, of any person described in item (i);

(v) The lineal ancestors of a person described in item (i); or

(vi) The legal representatives of the person described in items (i)-(v).

(c) Effective July 1, 1996, pursuant to the requirements of subsections (g) and (h) of this section, and subject to the restrictions in the following sections or subsections:

(1)(A) All adoption records, sealed records, sealed adoption records, post-adoption records, or any other records or papers for a person relating to the adoption or attempted adoption of a person, which adoption was finalized by the completion of the adoption by the entry of an order of adoption or an order of dismissal of the adoption proceeding on or after March 16, 1951, or which records relate to an adoption or attempted adoption where the adoption petition was filed on or after March 16, 1951 or which was otherwise never completed, due to the abandonment, as determined by the department, on or after March 16, 1951, of any further necessary activity related to the completion of the adoption, and;

(B) Which records are in the office of the clerk of the adoption court, in the offices of the department of health, in the office of any child-placing agency, whether or not it is chartered or licensed, in the state, district, or county offices of the department of human services, or in any other information source, shall be made available to the following eligible persons:

(i) A person described in paragraph (A) twenty-one (21) years of age or older on whom an adoption record, sealed record, sealed adoption record, post adoption record, or other record or paper is maintained;

(ii) The legal representative of a person described in item (i).

(C) Notwithstanding any other provisions of this act to the contrary, any identifying information from any records of an adopted person or of a person described

in Paragraph (A) shall not be released to other persons or entities by the department or any other information source without the express written consent of the adopted person or of a person described in Paragraph (A) twenty-one (21) years of age or older or the legal representative of an adopted person or person described in Paragraph (A), or the parent of an adopted person or person described in Paragraph (A) under the age of twenty-one (21), and, notwithstanding any other of the following provisions of the act to the contrary, the adopted person or person described in Paragraph (A), his or her legal representative, or the parent of an adopted person or person described in Paragraph (A) under twenty-one (21) years of age shall under no circumstances be required to take any affirmative action pursuant to the contact veto provisions of this act to protect the confidentiality of such identifying information; provided, however, nothing herein shall be construed to prevent access to identifying information in the records of the adopted person as otherwise permitted or required pursuant to §§ 36-1-125, 36-1-126 and 36-1-138.

SECTION 81. Tennessee Code Annotated, Section 36-1-127, is amended by deleting subsection (e) in its entirety and substituting instead the following new subsection:

(e) Except in cases arising pursuant to § 36-1-127(b) or § 36-1-138, no access to identifying information in any adoption record, sealed record, sealed adoption record, post adoption record or adoption assistance record, shall be granted:

(1) To any parent, pre-adoptive guardian, sibling, lineal descendant or lineal ancestor of a person under the age of twenty-one (21); or

(2) At any time to any parent or pre-adoptive guardian, or to a sibling, lineal ancestor, or spouse or legal representative of the person whose rights were involuntarily terminated for cause in a termination of parental rights proceeding; or

(3) To any persons whom the sealed record, sealed adoption record or the post adoption record indicate were guilty of a crime of violence or neglect involving the

person who was placed for adoption or who was the subject of the termination of parental rights by court action or by surrender or parental consent.

SECTION 82. Tennessee Code Annotated, Section 36-1-127(f), is amended by deleting the words “sealed adoption record, or post-adoption record” in the first sentence and substituting instead the words “adoption record, sealed adoption record, sealed record, or post-adoption record”.

SECTION 83. Tennessee Code Annotated, Section 36-1-127(g), is amended by designating the current language as subdivision (1) and adding the following as new subdivision (2):

(2) If the department does not have a sealed record, sealed adoption record, or post-adoption record, and if the person seeking information concerning their history has a copy of the order of adoption from a Tennessee court and any other proof of the adoption of the person in Tennessee which, in the discretion of the department is satisfactory to prove that that person is an eligible person, the department may issue a statement to that person permitting that person to obtain access to any records held by any other information source.

SECTION 84. Tennessee Code Annotated, Section 36-1-128(b), is amended by deleting subdivisions (1), (2), and (3) in their entirety and substituting instead the following subdivisions and renumbering subsequent subdivisions accordingly:

(1) A person who is in the class of persons described in § 36-1-127(c) who would be eligible to obtain access to their records pursuant to this part; or

(2) A parent, sibling, spouse, lineal ancestor, lineal descendant or legal representative of a person described in subdivision (1);

SECTION 85. Tennessee Code Annotated, Section 36-1-128(c)(1), is amended by inserting the words “lineal ancestor” after the words “parent, sibling, spouse,” and before the words “or lineal”.

SECTION 86. Tennessee Code annotated, Section 36-1-127(h)(1), is amended by inserting the words “sealed record” before the words “or a post-adoption record”.

SECTION 87. Tennessee Code Annotated, Section 36-1-130(a)(1), is amended by inserting the words “sealed record” before the words “or a post-adoption record”.

SECTION 88. Tennessee Code Annotated, Section 36-1-131(a), is amended by inserting the words and punctuation “, sealed record” before the words “or a post-adoption record”.

SECTION 89. Tennessee Code Annotated, Section 36-1-133(a), is amended by inserting the words and punctuation “, sealed record” before the words “or a post-adoption record”.

SECTION 90. Tennessee Code Annotated, Section 36-1-133(b), is amended by inserting the words and punctuation “, sealed record” before the words “or a post-adoption record”.

SECTION 91. Tennessee Code Annotated, Section 36-1-137(a), is amended by inserting the words “the sealed records or” before the words “the post-adoption records”.

SECTION 92. Tennessee Code Annotated, Section 36-1-138(a)(1), is amended by inserting the words and punctuation “sealed record,” before the words “post-adoption record”.

SECTION 93. Tennessee Code Annotated, Section 36-1-138(a)(4), is amended by inserting the words and punctuation: “sealed adoption record, or sealed record” after the words “adoption record”.

SECTION 94. Tennessee Code Annotated, Section 36-1-138(c), is amended by inserting the words and punctuation “sealed record,” before the words “post-adoption record”.

SECTION 95. Tennessee Code Annotated, Section 36-1-138(d), is amended by inserting the words and punctuation “, sealed record” before the words “or the post-adoption record”.

SECTION 96. Tennessee Code Annotated, Section 36-1-138(e), is amended by inserting the words and punctuation: “adoption records, sealed records” after the word “sealed”.

SECTION 97. Tennessee Code Annotated, Section 36-1-129, is amended in subsection (f) by deleting the words “during the term of the one hundredth general assembly” and substituting instead the words and figures “of the one hundredth general assembly on or before January 15, 1998”.

SECTION 98. Tennessee Code Annotated, Section 36-1-134, is amended by deleting the section in its entirety and substituting instead the following new section:

(a) Subject to written direction of the person filing the contact veto and the consent of the eligible persons requesting the search pursuant to this part, the department, or a licensed child-placing agency or the licensed clinical social worker which has had a prior relationship with the parties through placement of a child or through a home study process and which maintain a limited record or post-adoption record, shall, in any situation where contact has been sought, transmit between the parties any written, photographic, video, or audio communication, even if no direct contact is permitted or desired.

(b) Requesting parties or eligible persons may, in writing from time-to-time to the department, a licensed child-placing agency, or the licensed clinical social worker, update their personal information, addresses, and telephone numbers in order to allow periodic contact by the department for subsequent search requests or for other contact by the department or the licensed child-placing agency or the licensed clinical social worker.

(c) The licensed child-placing agency or licensed clinical social worker receiving any updated information pursuant to this section shall provide such information to the department to be included in the post-adoption record for future reference.

SECTION 99. Tennessee Code Annotated, Section 36-1-138(c), is amended by deleting subdivision (6) and substituting instead the following new subdivision:

(6) The movant is an individual who alleges wrongful denial of access pursuant to § 36-1-127(e)(2) or (3).

SECTION 100. Tennessee Code Annotated, Section 36-1-141(b), is amended in subdivision(4) by deleting the words “and revocation of consents”.

SECTION 101. Tennessee Code Annotated, Section 36-1-141(b), is amended by deleting subdivision (7) in its entirety and substituting instead the following new subdivision:

(7) Contact veto forms used in the surrender or parental consents pursuant to any other requirements of this part, or sworn statement forms required for access to records pursuant to any requirements of this part.

SECTION 102. Tennessee Code Annotated, Section 37-2-403(b)(2)(B), is amended by deleting the figures “§36-1-105(e)(1)” and substituting instead the figures “§36-1-115(g)”.

SECTION 103. Tennessee Code Annotated, Section 37-2-409(b), is amended by deleting the last sentence in its entirety and substituting instead the following new sentence:

Parental rights may not be terminated except in accordance with a petition filed for that purpose filed pursuant to Title 36, Chapter 1, Part 1 or this part.

SECTION 104. Tennessee Code Annotated, Title 36, Chapter 1, Part 1, is amended by adding the following as a new section:

(a) Notwithstanding any other law to the contrary, Tennessee Code Annotated, Sections 36-1-139 and 36-1-141 as they existed prior to the effective date of Public Chapter 532 of the Public Acts of 1995, shall continue in effect until July 1, 1996 at which time the access to records procedure established pursuant to § 36-1-127(c) and the Contact Veto Registry established pursuant to §36-1-128 will become effective for persons affected by those sections.

(b) It is the intent of the General Assembly that until the effective date of those provisions of §§36-1-127(c) and §36-1-128, and any other implementing provisions of the code which are necessary to effectuate their intended purpose, access to any sealed records or sealed adoption records which may be available pursuant to persons previously eligible to request access to records under former §§ 36-1-139 and 36-1-141 be continued under those prior provisions until July 1, 1996, and the methods contained in §§ 36-1-139 and 36-1-141 shall be the only available, non-judicial, methods for access to records for those persons until July 1, 1996.

(c) The basis for judicially ordered opening of all records shall, effective January 1, 1996, be the provisions set forth pursuant to §36-1-138 as established by Public Chapter 532 of the Public Acts of 1995.

(d) The provisions of subsections (a) and (b) of this section shall cease to be effective for records requests made on or after July 1, 1996.

SECTION 105. This act shall take effect on becoming a law, the public welfare requiring

it.

AN ACT to amend Tennessee Code Annotated, Title 36 and Title 37 relative to adoptions.

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